

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JAMAL CHAMLEE,

Plaintiff,

Index No.:

-against-

VERIFIED COMPLAINT

THE CITY OF NEW YORK, THE NEW YORK CITY
POLICE DEPARTMENT, P.O. IVAN RODRIGUEZ,
DETECTIVE SHANNON BROOKS, DETECTIVE
JORGE TOBON, DETECTIVE ANGUS MACKENZE,
P.O. WINSTON FAVIS,

Defendants.

Plaintiff by his attorneys, REINGOLD & TUCKER, as and for his Verified Complaint,
upon information and belief, allege as follows:

1. At all relevant times, the defendants, The City of New York is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.
2. At all relevant times, the defendant, The New York City Police Department, is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.
3. At all relevant times, the defendants, The New York City Police Department, is an entity of The City of New York, duly organized and existing under and by virtue of the laws of the State of New York.
4. At all relevant times the defendant, P.O. IVAN RODRIGUEZ, was an employee of The City of New York Police Department.

5. At all relevant times the defendant, DETECTIVE SHANNON BROOKS was an employee of The City of New York Police Department.

6. At all relevant times the defendant, DETECTIVE JORGE TOBON, was an employee of The City of New York Police Department.

7. At all relevant times the defendant, DETECTIVE ANGUS MACKENZE, was an employee of The City of New York Police Department.

8. At all relevant times the defendant, P.O. WINSTON FAVIS, was an employee of The City of New York Police Department.

9. Plaintiff has complied with all of the applicable sections of the General Municipal Law, which are conditions precedent to the bringing of this action against the defendants, The City of New York and The New York City Police Department.

10. On the 6th day of March, 2015 plaintiffs' Notice of Claim and Intention to Sue was duly served upon and filed with The Office of the Comptroller of The City of New York; said notice was filed within 90 days after the cause of action herein accrued.

11. That at least 30 days have elapsed since the demand or claim upon which this action is predicated was presented to the City for adjustment and that it has neglected and/or refused to make adjustment or payment thereof. That this action is commenced within one year and ninety days after the cause of action accrued.

12. On or about December 6, 2011, many police officers and police personnel forcefully entered the plaintiff's residence at 127 West 135th Street, New York, New York, Apt.

3A.

13. The entry by the said officers was made by breaking the apartment door down with a battering ram.

14. The said entry was made without a warrant to search or arrest.

15. The forced entry was made by defendant, P.O. IVAN RODRIGUEZ.

16. The forced entry was made by defendant, DETECTIVE SHANNON BROOKS.

17. The forced entry was made by defendant, DETECTIVE JORGE TOBON.

18. The forced entry was made by defendant, DETECTIVE ANGUS MACKENZE.

19. The forced entry was made by defendant, P.O. WINSTON FAVIS.

20. The plaintiff was arrested along with five other people.

21. The excuse alleged by the defendants for the forced entry and arrest was the smell of marijuana smoke in the hallway, the smoking of which is a Class B Misdemeanor.

22. There was no claim that the plaintiff herein was smoking a marijuana cigarette.

23. It was declared by the Appellate Division, First Judicial Department that smoking marijuana is a Class B Misdemeanor and insufficient for forcing entry into a residence.

24. The arrest of the plaintiff was illegal, the search was illegal.

25. Thereafter the defendant, P.O. IVAN RODRIGUEZ made application for a search warrant without including his supporting affidavit that he and the other officers had gained forced entry into plaintiff's residence and that plaintiff and others had already been arrested.

26. The defendant, along with three others, were charged with criminal possession of controlled substance in the second degree, criminal possession of a weapon in the second degree and criminally using paraphernalia in the second degree.

27. On or about November 8, 2012, the plaintiff was convicted after a jury trial, thereafter sentenced to prison.

28. A hearing was ordered by the Appellate Division, First Judicial Department by Order dated August 21, 2014, directing that the plaintiff be granted a hearing to suppress evidence.

29. The City of New York and The Police Department of The City of New York by their agents, servants or employees had opposed the granting of a suppression hearing.

30. After a hearing in Supreme Court, New York County, the Court presiding issued an Order dated January 13, 2015, granting the suppression of all evidence seized and used at the plaintiff's trial to convict him.

31. On or about March 5, 2015, the conviction of the plaintiff was vacated by the Appellate Division, First Judicial Department.

AS AND FOR A FIRST CAUSE OF ACTION

32. The defendants, their agents, servants and/or employees were negligent in causing, permitting and allowing the plaintiff to be falsely accused, arrested and held illegally by police officers of the City of New York, in forcefully entering the plaintiff's residence without a warrant; in failing to adequately hire and train said police officers; in failing to discharge said police officers, although the defendants knew or should have known the said officers were a danger and nuisance to the public; in trespassing and conducting a search, and making arrest without warrant and without cause, probable or otherwise, in violating the Federal and State Constitutional Civil Rights of the plaintiff herein; and in all other ways the defendants were negligent, careless and reckless.

33. That solely as a result of the foregoing the plaintiff has been caused to suffer mental anguish and injuries.

34. That reason by the foregoing the plaintiff has been caused to suffer mental anguish and injuries.

35. By reason of the foregoing the plaintiff has been damaged in a sum that exceeds the jurisdictional limits of all lower courts.

AS AND FOR A SECOND CAUSE OF ACTION

36. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbers "1" through "35" inclusive, with the same force and effect as if fully set forth at length herein.

37. The plaintiff was falsely arrested and unlawfully imprisoned.

38. Plaintiff has been damaged.

39. By reason of the foregoing the plaintiff has been damaged in a sum that exceeds the jurisdictional limits of all lower courts.

AS AND FOR A THIRD CAUSE OF ACTION

40. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbers "1" through "39" inclusive, with the same force and effect as if fully set forth at length herein.

41. As a result of the foregoing, the defendants are guilty of malicious prosecution.

42. Plaintiff has been damaged.

43. By reason of the foregoing the plaintiff has been damaged in a sum that exceeds the jurisdictional limits of all lower courts.

AS AND FOR A FOURTH CAUSE OF ACTION

44. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbers "1" through "43" inclusive, with the same force and effect as if fully set forth at length herein.

45. As a result of the foregoing the defendants were guilty of assault and battery.

46. Plaintiff has been damaged.

47. By reason of the foregoing the plaintiff has been damaged in a sum that exceeds the jurisdictional limits of all lower courts.

AS AND FOR A FIFTH CAUSE OF ACTION

48. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbers "1" through "47" inclusive, with the same force and effect as if fully set forth at length herein.

49. During the incarceration of the plaintiff for over three years, the defendant was guilty of custodial neglect; in failing to provide the plaintiff with adequate medical and nursing services; in preventing proper diagnosis for his illness; in failing to provide proper treatment; in failing to provide proper diagnostic services and procedures; and in general and in other respects in being negligent, careless and performing custodial negligence.

50. As a result fo the foregoing the plaintiff has been caused to suffer physical injuries and mental anguish.

51. By reason of the foregoing the plaintiff has been damaged in a sum that exceeds the jurisdictional limits of all lower courts.

AS AND FOR A SIXTH CAUSE OF ACTION

52. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbers "1" through "51" inclusive, with the same force and effect as if fully set forth at length herein.

53. As a result of the foregoing, defendants are guilty of neglect and intentional infliction of emotional harm upon plaintiff.

54. Plaintiff has been damaged.

55. By reason of the foregoing the plaintiff has been damaged in a sum that exceeds the jurisdictional limits of all lower courts.

AS AND FOR A SEVENTH CAUSE OF ACTION

56. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbers "1" through "55" inclusive, with the same force and effect as if fully set forth at length herein.

57. The defendants violated the plaintiff's Civil Rights and rights under 42 U.S.C. 1983 and of the statutes and the Constitution of the State of New York and of the Constitution of the United States.

Acting under the color of law, defendants denied the plaintiff of his rights, privileges, secured by the United States Constitution or by Federal Law 42 U.S.C. 1983 by depriving the plaintiff of his liberty without due process of law, by taking him into custody and incarcerating him and holding him there against his will, by making unreasonable search and seizure of his property without due process of law by conducting strip search of his body; initiation of criminal proceedings against the plaintiff; in forceful entry into his residence without a warrant; in

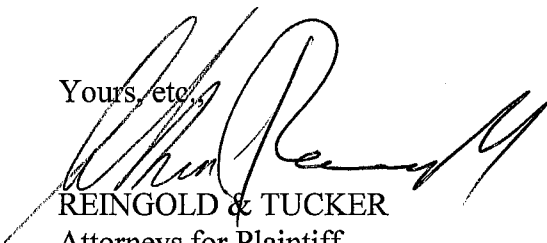
obtaining a subsequent warrant in order to legitimize the illegal arrest and search; conspiring and cooperating in the criminal conviction by the use of illegally obtained evidence, in opposing a suppression hearing; by conspiring for the purpose of impeding and injuring the due course of justice with intent to deny the plaintiff equal protection of the laws, by refusing or neglecting to prevent such deprivations and denials to plaintiff, thereby depriving the plaintiff of his rights, privileges and immunities as guaranteed by the fourth, fifth, and fourteenth amendments to the Constitution of the United States and of the Constitution of the State of New York.

58. Plaintiff has been damaged.

59. By reason of the foregoing the plaintiff has been damaged in a sum that exceeds the jurisdictional limits of all lower courts.

WHEREFORE, plaintiffs demand judgment against defendants in the Action First through Seventh in amounts that exceed the jurisdictional limits of all lower courts, which otherwise have jurisdiction, such amounts to be determined upon the trial of this action, and for attorney's fees, and also punitive damages against the individual defendants for every separate cause of action, together with the costs and disbursements of this action.

Yours, etc.,



REINGOLD & TUCKER

Attorneys for Plaintiff

26 Court Street

Brooklyn, New York 11242

(718) 875-4805

ATTORNEY'S VERIFICATION

The undersigned, an attorney admitted to practice law in the Courts of the State of New York, affirms:

That affirmant is a member of the firm of **REINGOLD & TUCKER**, the attorneys for the plaintiff in the within action; that affirmant has read the foregoing document, and knows the contents thereof.

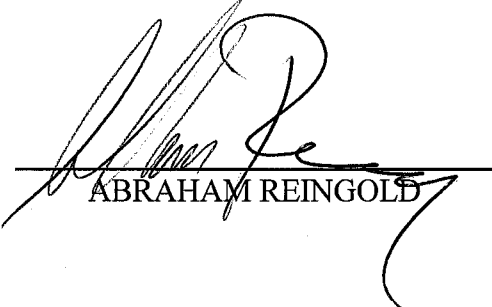
That the same is true to affirmant's own knowledge, except as to those matters therein stated to be alleged on information and belief, and that as to those matters affirmant believes it to be true.

That affirmant further states that the reason for this verification being made by affirmant and not by the plaintiff herein is that the plaintiff resides in another county, other than where affirmant maintains his offices.

The grounds of your affirmant's knowledge and information as to all matters not stated upon affirmant's knowledge are from files, investigation and information furnished.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: Brooklyn, New York
November 4, 2015


ABRAHAM REINGOLD